

# EXHIBIT A

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT

ANTONIO CABALLERO,

Plaintiff,

v.

FUERZAS ARMADAS  
REVOLUCIONARIAS DE COLOMBIA and  
NORTE DE VALLE CARTEL,

Defendants.

Civil Action No. 3:20-cv-1939 (RNC)

JANUARY 25, 2021

**NOTICE AND CLAIM FOR DETERMINATION OF DISPUTED PROPERTY**

Pursuant to Conn. Gen. Stat. § 52-356c, Interactive Brokers LLC (“Interactive Brokers”) hereby gives notice of disputed claims with respect to an account (the “Account”) that is in the name of ALBA Petroleos de El Salvador S.E.M. de C.V. (“ALBA Petroleos”). The Account is the subject of a turnover order dated January 14, 2021 (ECF 53) (the “Turnover Order”).

Interactive Brokers claims and requests a hearing for a determination of the competing claimed interests in the Account. Interactive Brokers states the following in connection with this matter:

***Plaintiff’s Claim to the Account and the Entry of the Turnover Order***

1. On or about October 16, 2020, Plaintiff Antonio Caballero (“Plaintiff”) commenced this action by registering a judgment (the “Judgment”) from the United States District Court for the Southern District of Florida against Defendant Fuerzas Armadas Revolucionarias De Colombia (“FARC”) and others.

2. On or about November 6, 2020, Plaintiff filed a sealed application for an *ex parte* turnover order. (ECF 28)

3. On or about December 23, 2020, the Court issued a sealed Temporary Restraining Order Freezing Account Pending Hearing on Application for Turnover Order (the “TRO”) with respect to the Account. (ECF 43) The Account is held in Connecticut.

4. According to the marshal’s affidavit of service filed on January 4, 2021 (ECF 45), on December 24, 2020, the marshal attempted in-person service of the TRO and related papers at the Greenwich, Connecticut headquarters of Interactive Brokers, but in-person service was not accomplished because Interactive Brokers’ workforce has been working remotely due to the COVID-19 pandemic. The marshal states that, also on December 24, 2020, he served the TRO and related papers to Interactive Brokers by U.S. Postal Service priority mail and via e-mail to a compliance e-mail address at Interactive Brokers as directed by the security guard at the premises. The marshal’s e-mail was received on Interactive Brokers’ system at the compliance e-mail address on December 24, 2020.

5. The marshal’s mailing of the TRO was delivered to Interactive Brokers in Greenwich on or about January 4, 2021. (ECF 45)

6. On January 14, 2021, the Court issued the Turnover Order. As set forth in the Turnover Order, Plaintiff is attempting to execute on the Judgment and asserts that ALBA Petroleos is an agency and instrumentality of FARC. The Court concluded that ALBA Petroleos is an agent or instrumentality of FARC and that the blocked assets of ALBA Petroleos, *i.e.* the Account, were subject to attachment and execution by Plaintiff under Section 201(a)(d)(4) of the Terrorism Risk Insurance Act of 2002 (“TRIA”). The Court further concluded that Conn. Gen. Stat. § 52-356b and, alternatively, § 52-552h(b) authorized the Court to issue the requested turnover order.

7. On January 15, 2021, Plaintiff served the Turnover Order on Interactive Brokers.

***Other Claims to the Account***

8. On December 29, 2020, Interactive Brokers accepted service by email of property executions issued by the United States District Court for the Southern District of New York relating to judgments against FARC and others that have been registered in the United States District Court for the Southern District of New York in the matters styled *Pescatore et al. v. Pineda et al.*, 1:18-mc-00545-ALC (the “Pescatore Judgment Action”) and *Stansell et al. v. FARC et al.*, 1:16-mc-00405-ALC (the “Stansell Judgment Action”). The executions relating to both the Pescatore Judgment Action and the Stansell Judgment Action reference the Account as property that is subject to execution.

9. The plaintiffs-judgment creditors in the Pescatore Judgment Action are Olivia Pescatore, Josh Pescatore, Jada Pescatore, Jarrod Pescatore, Jordan Pescatore, Carol Pescatore Harpster (individually and as the representative of the estate of Frank Pescatore Sr.), Richard Pescatore, John Pescatore, and Carolyn Pescatore (collectively, the “Pescatore Claimants”).

10. The plaintiffs-judgment creditors in the Stansell Judgment Action are Keith Stansell, Marc Gonsalves, Thomas Howes, Judith G. Janis, Christopher T. Janis (individually and as personal representative and heir to the estate of Greer C. Janis, Michael I. Janis, and Jonathan N. Janis (collectively, the “Stansell Claimants”).

11. On or about January 15, 2021, the Pescatore Claimants and the Stansell Claimants filed motions for turnover orders in the Pescatore Judgment Action and Stansell Judgment Action, respectively. In these motions, the Pescatore Claimants and Stansell Claimants seek a turnover order against Interactive Brokers to require the turnover of the Account to them. The Pescatore Claimants and Stansell Claimants assert in the motions that:

- a. they are entitled to turnover of ALBA Petroleos' blocked assets pursuant to TRIA;
- b. they obtained an execution lien against the Account as of December 16, 2020, when they claim they delivered the writ of execution to the sheriff; and
- c. no other creditors have priority over them with respect to the Account.

12. Responses to the turnover order motions in the Pescatore Judgment Action and Stansell Judgment Action are due on January 29, 2021.

13. Plaintiff has informed Interactive Brokers that he claims that he has priority to the Account for several reasons. Plaintiff has asserted that the Account is located solely in Connecticut and he is the only claimant with a judgment in Connecticut, that the New York executions obtained by the Pescatore Claimants and Stansell Claimants have no effect in Connecticut over an Account located in Connecticut, and that Plaintiff served the TRO prior to the Pescatore Claimants' and Stansell Claimants' service of their executions.

14. Accordingly, Plaintiff, the Pescatore Claimants, and the Stansell Claimants have asserted competing claims to the Account.

***Claim for Determination Under Conn. Gen. Stat. § 52-356c***

15. Section 52-356c provides for a hearing for a determination of interests in disputed property upon request by a judgment creditor or third party upon the application for a turnover order. Conn. Gen. Stat. § 52-356c(a). Notice of the hearing shall be served on all persons known to have claims to the disputed property. Conn. Gen. Stat. § 52-356c(c). This statutory hearing is equitable in nature. *See Simko v. LaMorte*, 222 Conn. 793, 798 (1992); *In re Allen-Main Assocs. Ltd. P'ship*, 223 B.R. 632, 635 (Bankr. D. Conn. 1998).

16. “Pending the hearing on the claim and subject to further order of the court, any property in dispute shall continue to be held by the person then in possession and shall not be transferred to any person who is not a party to the supplemental proceeding.” Conn Gen. Stat. § 52-356c(d).

17. Interactive Brokers is holding the Account in accordance with relevant sanctions against the accountholder and has frozen the Account for withdrawals.

18. Under § 52-356c(e), “[t]he court may permit or require such further pleadings, amendments and notices and may make such further orders as justice or orderly administration requires.”

19. Based on the information available to Interactive Brokers, the parties who assert claims to the Account are:

- a. Plaintiff;
- b. the Pescatore Claimants;
- c. the Stansell Claimants; and
- d. ALBA Petroleos.

20. Interactive Brokers is a neutral stakeholder with respect to these competing claims. Interactive Brokers’ interest in this matter is to ensure that all persons known to have a claim to the Account receive notice and have an opportunity to be heard, that there is a single proceeding to adjudicate the disputed claims, and to avoid duplicative or conflicting court rulings with respect to interested persons’ rights to the Account.

21. Counsel for Interactive Brokers will provide a copy of this filing to counsel representing the Pescatore Claimants and Stansell Claimants. Counsel also will seek to confer with all counsel regarding a briefing and hearing schedule to propose to the Court. Interactive

Brokers requests that the Court hold a status conference once counsel have had an opportunity to confer.

22. Interactive Brokers reserves its rights to amend this notice and claim and to supplement the record on any issue that is raised in this matter.

WHEREFORE, Interactive Brokers requests that the Court:

- A. order a briefing and scheduling order;
- B. conduct a hearing pursuant to Conn. Gen. Stat. § 52-356c;
- C. render judgment determining the respective claimed interests of the parties; and
- D. issue any further orders as justice or orderly administration requires.

INTERACTIVE BROKERS LLC

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**CERTIFICATE OF SERVICE**

This is to certify that on this 25th day of January, 2021, a copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system. Parties may access this filing through the court's CM/ECF system.

Notice has also been sent by e-mail to the following counsel:

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